

Message Text

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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 SSO-00 NSCE-00 INRE-00 SP-02 L-03

H-02 CIAE-00 COME-00 DODE-00 DOTE-00 FMC-01 INR-07

NSAE-00 CG-00 OFA-01 DLOS-04 /034 R

DRAFTED BY EB/TT/MA:SVSMITH:EW

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MARAD:SPARDUE

ARA/LA/BC:RHECTMAN

FMC:FSHREVES

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FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO IMMEDIATE

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E.O. 11652: N/A

TAGS:EWWT, CI

SUBJECT: DISCRIMINATORY SHIPPING DECREE

REF: A) SANTIAGO 8634; B) SANTIAGO 0018; C) STATE 3349;

D) SANTIAGO 0164

1. LANGUAGE REQUESTED PARA 4, REF D, FOLLOWS:

IN ACCORDANCE WITH LONG-ESTABLISHED U.S. POLICY, CHILEAN
FLAG VESSELS AS WELL AS ALL OTHER FOREIGN FLAG VESSELS
ENJOY IN U.S. PORTS EQUAL ACCESS WITH U.S. FLAG VESSELS
TO COMMERCIAL CARGOES, WITH THE ACTUAL PERCENTAGES OF
COMMERCIAL CARGOES LOADED BY FOREIGN FLAG OR U.S. FLAG
VESSELS DICTATED ONLY BY THE COMMERCIAL AND ECONOMIC
REALITIES GOVERNING A PARTICULAR TRADE. THUS, CHILEAN
FLAG VESSELS MAY CARRY AS MUCH U.S. COMMERCIAL EXPORT
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CARGO BOUND FOR CHILE AS THEY ARE ABLE TO OBTAIN UNDER

PREVAILING MARKET CONDITIONS.

2. LYKES BROTHERS STEAMSHIP CORP., INC., WASHINGTON REP, PHONED DEPARTMENT JAN. 8 TO REPORT THEIR INITIAL REACTION TO DECREE LAW 1297. LYKES' READING OF DL 1297 IS THAT IT EFFECTIVELY CUTS LYKES OUT OF IMPORTANT "WAYPORT" CARGOES BETWEEN CHILE AND THIRD COUNTRIES. AS DEPARTMENT HAS NOT

RECEIVED TEXT DL 1297, POUCHED PER REF B, WE ARE UNABLE TO EVALUATE LYKES' CONCERNS.

3. ADDITIONALLY, DEPARTMENT IS UNCERTAIN WHAT EFFECT DL 1,97 WILL HAVE ONCE IT IS FOUND PER PARA 4 REF A, THAT THE VAT REBATE "DOES NOT CONSTITUTE A SUBSIDY WITHIN MEANING DL 466" (THUS ELIMINATING LEGAL BASIS FOR CHILEAN 100 PERCENT EXPORT CARGO PREFERENCE). IN OTHER WORDS, DEPARTMENT UNCERTAIN WHETHER DL 1297 WILL STIPULATE A PERCENTAGE OF SHIPMENTS WHICH MUST BE CARRIED ON CHILEAN VESSELS ONCE IT IS FOUND THAT THE VAT REBATE DOES NOT CONSTITUTE A SUBSIDY WITHIN THE MEANING OF DL 466.

4. ACTION REQUESTED: A) TRANSMIT LANGUAGE PROVIDED PARA 1 ABOVE TO APPROPRIATE CHILEAN GOVERNMENT AUTHORITIES SO THAT U.S. FLAG VESSELS WILL BE ABLE TO CARRY CHILEAN EXPORTS TO UNITED STATES; B) PLEASE CABLE SALIENT POINTS OF DL 1297; C) PROVIDED IT NOT EVIDENT FROM DL 1297 ITSELF, PLEASE CABLE YOUR ASSESSMENT WHETHER DL 1297 WILL STILL AFFECT CHILEAN EXPORTS TO U.S. ONCE IT FOUND THAT THE VAT REBATE DOES NOT CONSTITUTE A SUBSIDY WITHIN MEANING OF DL 466; D) AGAIN, IF IT NOT EVIDENT FROM DL 1297, PLEASE CABLE YOUR ASSESSMENT WHETHER LYKES' FEARS ARE JUSTIFIED THAT GOC ACTION HAS NOW PRECLUDED THEIR PARTICIPATION IN CARRIAGE OF WAYPORT

CARGOES BETWEEN CHILE AND NON-U.S. PORTS. E) PLEASE CABLE YOUR ASSESSMENT ON WHEN GOC WILL FIND PER PARA 4, REF A THAT VAT REBATE DOES NOT CONSTITUTE A SUBSIDY UNDER DL 466. KISSINGER

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Margaret P. Grafeld
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